

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED

JUN 11 2018

Clerk, U.S. District Court
District Of Montana
Helena

GENET McCANN,

Plaintiff,

No. CV 18-57-H-SEH

vs.

ORDER

The Supreme Court of the State of Montana; Chief Justice Mike McGrath, in his official capacity as Chief Justice of the Montana Supreme Court;

The COMMISSION ON PRACTICE of the Supreme Court of the State of Montana; Ward Taleff, in his official capacity as Chairman of the Commission On Practice;

OFFICE OF THE STATE DISCIPLINARY COUNSEL, Michael Cotter Chief Disciplinary Counsel, in his official capacity; Jon Moog, deputy disciplinary counsel in his official capacity,

Defendants/Respondents.

This action was commenced on April 17, 2018.¹ An amended complaint was filed on May 24, 2018.² Defendants moved to dismiss the original complaint on

¹ Doc. 1.

² Doc. 17. Named as Defendants were the Supreme Court of the State of Montana and the Chief Justice in his official capacity, the Commission on Practice and the Chairman of the Commission on Practice in his official capacity, and the Office of Disciplinary Counsel and

May 3, 2018,³ and on June 7, 2018, moved with supporting brief to dismiss the amended complaint for lack of jurisdiction.⁴ Plaintiff filed a response on June 7, 2018.⁵

An Opinion and Order of the Montana Supreme Court was issued in Supreme Court Cause PR 17-0670 on June 5, 2018. That Order held, *inter alia*:

2. Genet McCann is hereby suspended from the practice of law in Montana for not less than seven months, effective thirty days from the date of this Order. McCann is directed to give notice of her suspension to all clients she represents in pending matters, any co-counsel in pending matters, all opposing counsel and self-represented opposing parties in pending matters, and all courts in which she appears as counsel of record in pending matters, as required by Rule 30, MRLDE.

4. [sic] McCann shall pay the costs of these proceedings subject to the provisions of Rule 9(A)(8), MRLDE, which allow her to file objections to the statement of costs.

5. In any application for readmission to the practice of law, McCann shall be required to establish that she is psychologically capable to competently practice law.⁶

This Court has no jurisdiction to undertake or address consideration of any

Chief Disciplinary Counsel and Deputy Disciplinary Counsel in their official capacities.

³ Doc. 7.

⁴ Doc. 18.

⁵ Doc. 20.

⁶ Opinion and Order at 7, *In the Matter of Genet McCann*, No. PR 17-0670 (Mont. S. Ct. June 5, 2018).

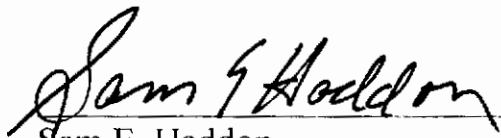
claim McCann asserted against the Montana Supreme Court, the Commission on Practice or the Office of Disciplinary Counsel in this case. In two separate but related actions previously filed by McCann, this Court has held: “(1) [] disciplinary proceedings are *sui generis* and are neither civil [nor] criminal in character; (2) [] the Montana Supreme Court has [exclusive] jurisdiction over matters related to discipline of lawyers licensed to practice in Montana; [and] (3) [] such matters are beyond and outside the jurisdiction of this Court” to address.⁷

The court finds it unnecessary to address other grounds, apart from this Court’s lack of jurisdiction, which would warrant dismissal.

ORDERED:

1. This case is DISMISSED for lack of jurisdiction.
2. Any and all other pending motions are DENIED as moot.
3. The clerk is directed to enter judgment of dismissal and close the case.

DATED this 11th day of June, 2018.


Sam E. Haddon
United States District Judge

⁷ Doc. 9 at 3, CV 18-02-H-SEH; Doc. 8 at 3, CV 18-03-H-SEH.